



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

Talley

Martin O'Malley
Governor

Shari T. Wilson
Secretary

Anthony G. Brown
Lieutenant Governor

AUG - 2 2010

Robert M. Summers, Ph.D.
Deputy Secretary

Ms. Diana Esher, Director
Air Protection Division
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

RECEIVED

AUG 06 2010

3AP20

Re: Greenhouse Gas Permitting

Dear Ms. Esher:

I am writing to advise you of the Department's plans with regard to permitting Greenhouse Gas Sources under Maryland's Title V air operating program and Maryland's Prevention of Significant Deterioration (PSD) program.

1. Title V Air Operating Permit Program

A. Interpretation of "major source" to include sources of greenhouse gases:

The Department interprets its current definition of "major source" to include sources of greenhouse gas emissions. The Department's legal authority for this interpretation is as follows: Code of Maryland Regulations ("COMAR") 26.11.02.C(1) defines "major source" for purposes of COMAR 26.11.02 (non-Title V permits) and COMAR 26.11.03 (Title V permits) to include:

"A major stationary source of air pollutants, as defined in section 302 of the Clean Air Act, that directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant, including a major source of fugitive emissions of the pollutant, as determined by rule by the EPA."

The Department interprets the above current definition of "major source" in COMAR to include any major stationary source of air pollutants that emits or potentially emits 100 tons per year or more of anything that has been regulated by EPA as an air pollutant. Under the Department's interpretation, this would include GHG because EPA has regulated GHG as an air pollutant under the Light Duty Vehicle Rule, as well as the GHG Tailoring Rule.

B. Amendment of the definition "major source" to create a definition of the phrase "as determined by rule by the EPA":

The Department intends to regulate emissions of GHG at the numerical thresholds specified in the GHG Tailoring Rule. The Department likely will accomplish this by an amendment to the current definition of "major source" at COMAR 26.11.02C(1), that will define the phrase "as determined by rule by the EPA" as used therein. That amendment will contain language consistent with (and not less stringent than) the language in EPA's definition of "subject to regulation" in its GHG Tailoring Rule at 40 CFR 70.2.

2. Prevention of Significant Deterioration Program

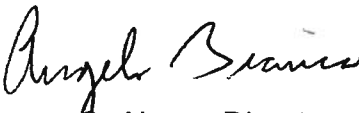
The Department will undertake a rulemaking to clarify that PSD sources in Maryland are subject to the GHG Tailoring Rule's amendments to 40 CFR 52.21. Currently, Maryland's PSD program applies to "PSD sources" as defined in COMAR 26.11.01B(37). That definition is "any new or modified source subject to the provisions of 40 CFR section 52.21, as published in the 2008 edition..." The Department will amend that definition to either delete or modify the text "as published in the 2008 edition." The Department will amend identical language in its PSD program regulations at COMAR 26.11.06.14(b)(1), which provides that a person may not construct, modify or operate a PSD source in violation of any provision of 40 CFR 52.21, as published in the 2008 edition."

The Department intends to regulate PSD sources of GHG emissions at the numerical thresholds specified in the GHG Tailoring Rule. The Department likely will accomplish this by including language in its amendment of the definition of "PSD sources" in COMAR 26.11.01B(37)(a) and (b) that is consistent with (and not less stringent than) the language in EPA's definition of "subject to regulation" in its GHG Tailoring Rule at 40 CFR 52.21.

The Department anticipates completing this rulemaking before January 2, 2011.

I look forward to working with you as we implement GHG permitting in Maryland. If you have any questions, please feel free to call me at (410) 537-3255 or have a member of your staff call Ms. Karen Irons, Program Manager of the Air Quality Permits Program, at (410) 537-3230
her

Sincerely,


George S. Aburn, Director
Air and Radiation Management Administration

cc: Ms. Kathleen Anderson